

Filed for intro on 01/24/96  
HOUSE BILL 2475 By  
Sharp

SENATE BILL 2820  
By Carter

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 7, Part 21, relative to protection of scholastic athletes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Scholastic Athlete Protection Act of 1996".

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 7, Part 21, is amended by deleting Part 21 in its entirety and substituting instead the following:

Section 49-7-2101. As used in this part unless the context otherwise requires:

(1) "Agent contract" means a contract or agreement in which a student athlete authorizes an athlete agent to represent the student in the marketing of the student's athletic ability or athletic reputation;

(2) "Athlete agent" means a person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, or who, for any type of financial gain, procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete, or with any promoter who markets or attempts to market the student athlete's athletic ability or athletic reputation;

(3) "College or university" means any public or private institution of higher education in the state of Tennessee;

(4) "Contact" means communication between an athlete agent and a student athlete, by whatever means, directly or indirectly, for the purpose of entering or soliciting entry into an agent contract;

(5) "Department" means the department of commerce and insurance;

(6) "Student athlete" means any student who:

(a) Resides in Tennessee, has informed, in writing, a college or university of the student's intent to participate in that school's intercollegiate athletics or who does participate in that school's intercollegiate athletics and is eligible to do so; or

(b) Does not reside in Tennessee, but has informed, in writing, a college or university in Tennessee, of the student's intent to participate in that school's intercollegiate athletics, or who does participate in that school's intercollegiate athletics and is eligible to do so;

(7) "Financial services" means the counseling on or the making or execution of investment and other financial decisions by the agent on behalf of the student athlete; and

(8) "Participation" means practicing, competing, or otherwise representing a college or university in intercollegiate athletics.

Section 49-7-2102.

(a) An athlete agent and a student athlete who enter into an agent contract must provide written notice of the contract to the athletic director or the president of the college or university in which the student athlete is enrolled. The athlete agent and the student must give the notice before the contracting student athlete practices or participates in any intercollegiate athletic event or within seventy-two (72) hours after entering into said contract, whichever comes first.

Failure of the athlete agent or student athlete to provide this notification is a Class E felony.

(b) A written contract between a student athlete and an athlete agent must state the fees and percentages to be paid by the student athlete to the agent and must have a notice printed near the student athlete's signature containing the following statement in 10-point boldfaced type:

WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE AND CONSTITUTES A CLASS E FELONY. DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE ATHLETICS.

(c) An agent contract which does not meet the requirements of this section is void and unenforceable.

(d) Within fifteen (15) days after the date the athletic director or president of the college or university of the student athlete receives the notice required by this section that a student athlete has entered into an athlete agent contract, the student athlete shall have the right to rescind the contract with the athlete agent by giving written notice to the athlete agent of the student athlete's rescission of the contract. The student athlete may not under any circumstances waive the student athlete's right to rescind the agent contract.

(e) A postdated agent contract is void and unenforceable.

(f) An athlete agent shall not enter into an agent contract that purports to or takes effect at a future time after the student athlete no longer has remaining eligibility to participate in intercollegiate athletics. Such a contract is void and unenforceable.

(g) An agent contract between a student athlete and a person not licensed under this part is void and unenforceable.

Section 49-7-2103.

(a) The following acts shall be grounds for the disciplinary actions provided for in subsection (c):

(1) A violation of any law relating to the practice as an athlete agent including, but not limited to, violations of this part and any rules promulgated thereunder;

(2) Failure to account for or to pay, within a reasonable time, not to exceed thirty (30) days, assets belonging to another which have come into the control of the athlete agent in the course of conducting business as an athlete agent;

(3) Any conduct as an athlete agent which demonstrates bad faith or dishonesty;

(4) Commingling money or property of another person with the athlete agent's money or property. Every athlete agent shall maintain a separate trust or escrow account in an insured bank or savings and loan association located in this state in which shall be deposited all proceeds received for another person through the athlete agent;

(5) Accepting as a client a student athlete referred by and in exchange for any consideration made to an employee of or a coach for a college or university located in this state;

(6) Offering anything of value to any person to induce a student athlete to enter into an agreement by which the agent will represent the student athlete. However, negotiations regarding the agent's fee shall not be considered an inducement;

(7) Knowingly providing financial benefit from the licensee's conduct of business as an athlete agent to another athlete agent whose license to practice as an athlete agent is suspended or has been revoked within the previous five (5) years;

(8) Committing mismanagement or misconduct as an athlete agent which causes financial harm to a student athlete or college or university;

(9) Failing to include the athlete agent's name and license number in any advertising related to the business of an athlete agent. Advertising shall not include clothing or other novelty items.

(10) Publishing or causing to be published false or misleading information or advertisements, or giving any false information or making false promises to a student athlete concerning employment or financial services;

(11) Violating or aiding and abetting another person to violate the rules of the athletic conference or collegiate athletic association governing a student athlete or student athlete's college or university;

(12) Having contact, as prohibited by this part, with a student athlete;

(13) Postdating agent contracts; or

(14) Having an athlete agent certification acted against by a professional athletic club or association.

(b) This part does not prohibit an agent from:

(1) Sending to a student athlete written materials provided that the athlete agent simultaneously sends an identical copy of such written materials to the athletic director, or the director's designee, of the college or university in which the student athlete is enrolled or to which the student athlete has provided a written intent to participate in intercollegiate athletics; and

(2) Otherwise contacting a student athlete, provided that the student athlete initiates the contact with the athlete agent and the athlete agent gives prior notice, as provided for by rule of the department, to the college or university in which the student athlete is enrolled or to which the student athlete has provided a written intent to participate in intercollegiate athletics.

(c) when the department finds any person guilty of any of the prohibited acts set forth in subsection (a), the department may enter an order imposing one (1) or more of the penalties provided for in this part.

Section 49-7-2104

(a) A college or university may sue for damages, as provided by this section, any person who violates this part. A college or university may seek

equitable relief to prevent or minimize harm arising from acts or omissions which are or would be a violation of this part.

(b) For purposes of this section, a college or university is damaged if, because of activities of the person, a student or the college or university is penalized or is disqualified or suspended from participation in intercollegiate athletics by a national association for the promotion and regulation of intercollegiate athletics or by an intercollegiate athletic conference and, because of that penalty, disqualification, or suspension, the institution:

- (1) Loses revenue from media coverage of a sports contest;
- (2) Loses the right to grant an athletic scholarship;
- (3) Loses the right to recruit an athlete;
- (4) Is prohibited from participating in post-season athletic competition;
- (5) Forfeits an athletic contest; or
- (6) Otherwise suffers an adverse financial impact.

(c) An institution that prevails in a suit brought under this section may recover:

- (1) Actual damages;
- (2) Punitive damages;
- (3) Court costs; and
- (4) Reasonable attorney's fees.

(d) In addition to damages, if any, awarded pursuant to other sections of this part, treble damages may be assessed for violation of this part which results in any ineligibility of a student athlete to compete, in an amount equal to three (3) times the value of the athletic scholarship furnished by the institution to the student athlete during the student athlete's period of eligibility.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring

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